

ASSEMBLY BILL

No. 1785

Introduced by Assembly Member Villaraigosa

January 26, 2000

An act to amend Sections 628, 628.1, 628.2, and 628.5 of the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1785, as introduced, Villaraigosa. Hate crimes: school crime reporting program.

Existing law requires that school districts report on crimes committed on school grounds, as specified. Existing law requires the State Department of Education, in consultation with the Department of Justice and a representative selection of school districts, to develop a standard school crime reporting form. Existing law requires the department to identify guidelines for reporting, and documentation for validating, the incidents of each crime description included on the standard school crime reporting forms, as specified.

This bill would require the department to specifically include reporting of hate motivated incidents and hate crimes, as defined, on the standard school crime reporting form. This bill would also require the department to establish reporting guidelines and documentation for validation criteria for hate crimes, as defined. By increasing the reporting duty of school districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Hate motivated incidents and hate crimes
4 jeopardize the safety and well-being of all students and
5 staff and are injurious to those victimized by such
6 behavior.

7 (b) There has been an increasing level of hate
8 motivated incidents and hate crimes in our schools and
9 communities.

10 (c) It should be the goal of the state to insure that
11 students appreciate and respect diversity, understand the
12 roles and contributions of people of diverse groups, and
13 are prepared to interact harmoniously, work
14 productively, and thrive personally in a pluralistic
15 society.

16 (d) Current law requires that school districts report
17 crime statistics to the California Department of
18 Education, twice annually. However, the ongoing
19 collection of information about hate motivated incidents
20 and hate crimes is limited.

21 (e) Better reporting and data collection of hate
22 motivated incidents and hate crimes will provide useful
23 information, both locally and at the state level, to assist in
24 targeting limited resources with greater effectiveness.

25 SEC. 2. Section 628 of the Penal Code is amended to
26 read:



628. It is the intent of the Legislature in enacting this section to ensure that schools, school districts, local government, and the Legislature have sufficient data and information about the type and frequency of crime, *including hate motivated incidents and hate crimes*, occurring on school campuses to permit development of effective programs and techniques to combat crime on school campuses.

SEC. 3. Section 628.1 of the Penal Code is amended to read:

628.1. (a) By June 30, 1995, the State Department of Education, in consultation with the Department of Justice and a representative selection of school districts and county offices of education which currently compile school crime statistics, shall develop a standard school crime reporting form for use by all school districts and county offices of education throughout the state. No individual shall be identified by name or in any other manner on this reporting form. The form shall define what constitutes the criminal activity required to be reported and shall include, but not be limited to, all of the following:

~~(a)~~

(1) Description of the crime *or incident, including hate motivated incidents or hate crimes.*

~~(b)~~

(2) Victim characteristics.

~~(c)~~

(3) Suspect characteristics, if known.

(b) *For purposes of this section the following definitions shall apply:*

(1) *“Hate motivated incident” means an act or attempted act which constitutes an expression of hostility against a person or property or institution because of the victim’s real or perceived race, religion, disability, gender, nationality, or sexual orientation. This may include using bigoted insults, taunts, or slurs, distributing or posting hate group literature or posters, defacing, removing, or destroying posted materials or*

1 *announcements, posting or circulating demeaning jokes*
2 *or leaflets.*

3 (2) “*Hate crime*” means an act or attempted act
4 against the person or property of another individual or
5 institution which in any way manifest evidence of
6 hostility toward the victim because of his or her actual or
7 perceived race, religion, disability, gender, nationality, or
8 sexual orientation. This includes, but is not limited to,
9 threatening telephone calls, hate mail, physical assault,
10 vandalism, cross burning, destruction of religious
11 symbols, or fire bombings.

12 SEC. 4. Section 628.2 of the Penal Code is amended to
13 read:

14 628.2. (a) On forms prepared and supplied by the
15 State Department of Education, each principal of a school
16 in a school district and each principal or director of a
17 school, program, or camp under the jurisdiction of the
18 county superintendent of schools shall forward a
19 completed report of crimes committed, *including hate*
20 *motivated incidents and hate crimes as defined in*
21 *paragraphs (1) and (2) of subdivision (b) of Section 628.1,*
22 on school or camp grounds at the end of each reporting
23 period to the district superintendent or county
24 superintendent of schools, as the case may be.

25 (b) The district superintendent, or, as appropriate, the
26 county superintendent of schools, shall compile the
27 school data and submit the aggregated data to the State
28 Department of Education not later than February 1 for
29 the reporting period of July 1 through December 31, and
30 not later than August 1 for the reporting period of January
31 1 through June 30.

32 (c) The superintendent of any school district that
33 maintains a police department pursuant to Section 39670
34 of the Education Code may direct the chief of police or
35 other administrator of that department to prepare the
36 completed report of crimes for one or more schools in the
37 district, to compile the school data for the district, and to
38 submit the aggregated data to the State Department of
39 Education in accordance with this section. If the chief of
40 police or other designated administrator completes the

1 report of crimes, the chief of police or other designated
2 administrator shall provide information to each school
3 principal about the school crime reporting program, the
4 crime descriptions, *including hate motivated incidents*
5 *and hate crimes as defined in paragraphs (1) and (2) of*
6 *subdivision (b) of Section 628.1*, included in the reporting
7 program, the reporting guidelines, and the required
8 documentation identified by the State Department of
9 Education for each crime description.

10 (d) The State Department of Education shall
11 distribute, upon request, to each school district governing
12 board, each office of the county superintendent of
13 schools, each county probation department, the Attorney
14 General, the Fair Employment and Housing
15 Commission, county human relations commissions, civil
16 rights organizations, and private organizations, a
17 summary of the statewide aggregated data. The
18 department also shall distribute, upon request, to each
19 office of the county superintendent of schools, each
20 county sheriff, and each county probation department, a
21 summary of that county's school district reports and
22 county reports. This information shall be supplied not
23 later than March 1 of each year for the previous school
24 year. The department shall also submit to the Legislature
25 a summary of the statewide aggregated data not later
26 than March 1 of each year for the previous school year. In
27 addition, commencing with the second annual report, the
28 department shall identify and analyze trends in school
29 crime by comparing the numbers and rates of crimes and
30 the resulting economic losses for each year against those
31 of previous years.

32 (e) All school district, county, and statewide reports
33 prepared under this chapter shall be deemed public
34 documents and shall be made available to the public at a
35 price not to exceed the actual cost of duplication and
36 distribution.

37 SEC. 5. Section 628.5 of the Penal Code is amended to
38 read:

39 628.5. The Legislature hereby recognizes that all
40 pupils enrolled in California public schools have the

1 inalienable right to attend classes on campuses that are
2 safe, secure, and peaceful. The Legislature also
3 recognizes the importance of accurate school crime data,
4 *including data on hate motivated incidents and hate*
5 *crimes as defined in paragraphs (1) and (2) of subdivision*
6 *(b) of Section 628.1*, in developing and implementing
7 school safety strategies and programs.

8 The State Department of Education, in consultation
9 with school districts and county offices of education, shall
10 identify guidelines for reporting and documentation for
11 validating the incidents of each crime description
12 contained on the standard school crime reporting forms
13 prepared pursuant to Sections 628.1 and 628.2. Reporting
14 guidelines and documentation for validation criteria shall
15 be established for each crime description, including, but
16 not limited to, all of the following: battery, assault with a
17 deadly weapon, graffiti, homicide, sex offenses, robbery,
18 extortion, drug and alcohol offenses, possession of
19 weapons, destructive devices, arson, burglary, theft,—and
20 vandalism, *and hate motivated incidents and hate crimes*
21 *as defined in paragraphs (1) and (2) of subdivision (b) of*
22 *Section 628.1.*

23 SEC. 6. Notwithstanding Section 17610 of the
24 Government Code, if the Commission on State Mandates
25 determines that this act contains costs mandated by the
26 state, reimbursement to local agencies and school
27 districts for those costs shall be made pursuant to Part 7
28 (commencing with Section 17500) of Division 4 of Title
29 2 of the Government Code. If the statewide cost of the
30 claim for reimbursement does not exceed one million
31 dollars (\$1,000,000), reimbursement shall be made from
32 the State Mandates Claims Fund.